

Town of Amherst
Zoning Board of Appeals
SPECIAL PERMIT

TOWN OF AMHERST
Received & RECORDED
FEB 18, 2015
2:15 P.M.
Book _____ Page _____
TOWN CLERK

The Amherst Zoning Board of Appeals hereby grants a Special Permit, ZBA FY2015-00015, to waive Section 7.0002 and allow three cars to be parked within the required front yard setback where the limit is two, under Section 7.9 of the Zoning Bylaw, at 279 West Street (Map 20A, Parcel 55, R-N Zoning District) subject to the following conditions:

1. All work associated with this permit shall be completed by May 15, 2015.
2. The reconstruction and expansion of the parking area shall be constructed and maintained substantially in accordance with the Town GIS plan dated November 18, 2014:
 - a. The parking area shall be: constructed with a 12 inch compacted base and topcoat, delineated on the south, west, and north by minimum sized 4 x 4 wood timbers anchored securely into the ground.
 - b. There shall be no more than three cars parked on the exterior on a regular basis.
 - c. All vehicles shall be parked on paved surfaces.
 - d. All disturbed areas outside of the delineated parking area shall be loamed and seeded with grass.
 - e. The existing evergreen shrubs along the south property line shall be maintained.
3. The gravel driveway and parking areas shall be maintained seasonally or more often if needed to prevent significant ruts and/or vegetation within the gravel areas.
4. Cars parked on the property shall not park on or otherwise block the sidewalk.
5. Any relocated landscaping shall not obstruct the view of drivers exiting the property.
6. Exterior lighting in the proximity of the parking shall be designed or arranged to be downcast and shall be motion sensed.

Eric Beal (B)
Eric Beal
Amherst Zoning Board of Appeals

February 18, 2015
DATE

Town of Amherst
Zoning Board of Appeals - Special Permit

DECISION

Applicant/Owner: Matt Leidl & Jen Hughes, 328 Middle Street, Amherst, MA 01002

Date application filed with the Town Clerk: October 2, 2014

Nature of request: For a Special Permit to waive Section 7.0002 and allow three cars to be parked within the required front yard setback where the limit is two, under Section 7.9 of the Zoning Bylaw

Address: 279 West Street (Map 11D, Parcel 108, R-G Zoning District)

Legal notice: Published on November 4, 2014 and November 11, 2014 and sent to abutters on November 4, 2014

Board members: Eric Beal, Tom Ehrgood, Mark Parent

Staff members: Jeff Bagg, Senior Planner, Rob Morra, Building Commissioner

Submissions:

- Application form filed with the Town Clerk on October 2, 2014
- Written project summary
- Management Plan form
- Email from Superintendent of Public Works, Guilford Mooring, dated September 17, 2014
- Town GIS parking plan and annotated photograph, dated September 16, 2014

Site Visit: November 4, 2014

Eric Beal, Mark Parent, and Tom Ehrgood viewed the property situated on the west side of West Street, and the following:

- The location of the existing single family dwelling in relatively close proximity to West Street. The approximate location of the front property line very close to the existing dwelling.
- The portion of the existing parking area/driveway under consideration. Preliminary marked out parking spaces per the plan, prepared by Town staff.

Public Hearing: November 6, 2014

In connection with the Town's Rental Permit program, the applicants, Matt Leidl and Jen Hughes are seeking a Special Permit to formalize an existing parking space. Specifically, the plan provides for three parking spaces located between the house and the sidewalk adjacent to West Street.

Mr. Leidl explained that he his tenants have utilized an informal third space adjacent to the driveway and he was ticketed by the Town of Amherst for parking vehicles on the lawn.

The Board discussed the request. It was noted that part of this request includes a waiver/modification under Section 7.9 of the Zoning Bylaw to allow three vehicles to be parked in the front setback where Section 7.0002 allows a maximum of two vehicles. The Board also noted that due to the wide width of the right of way for West Street, the front property line is very close to the existing house rendering a significant portion of the existing driveway and parking area to be within the Town right of way.

The Board discussed whether there are alternatives to allowing the third space. Specifically, the Board asked about the use of the existing one car garage and/or limiting the number of vehicles that the tenants could have. Mr. Leidl noted that the current tenants do not have cars, but that they are seeking the Special Permit provide them with the flexibility to rent it in the future to tenants with up to three cars. Mr. Leidl stated that the existing garage is used for tenant storage and that the preference would be to allow that to continue. He noted that adding a space along the garage was considered initially, but after considering the relatively steep drop off/change in topography along the garage, determined that it would require the installation of a significant retaining wall and would be very costly.

The Board discussed the proposed plan. It was noted that the north and south side of the parking area will be delineated with minimum sized 4 x 4 wood timbers anchored into the ground. The existing blacktop would be removed and the three parking spaces would be reconstructed to meet the Bylaw requirement of a 12 inch compacted base and topcoat.

The Board discussed the relocation of the existing shrubs. Mr. Leidl stated that two shrubs would need to be relocated and that they might be moved into the front yard. The Board did not dictate the location except that they not block the line of sight for vehicles exiting the driveway.

The Board identified that Section 7.0002 limits the number of cars in the front setback as follows:

In any residential district, there shall be a maximum of two (2) cars or similar vehicles allowed to be parked in the front setback of any property. Parking in the front setback shall be on paved surfaces only. Where five (5) or more cars are regularly parked on a given property in association with a residential use, parking in the front setback shall be designed so as to ensure free passage at all times for regular users and unrestricted access for emergency vehicles.

The Board identified that Section 7.90 allows the Board to waive or modify any requirement as follows:

Any section or subsection of Article 7.0, Parking Regulations, may be waived or modified by the Permit Granting Board or Special Permit Granting Authority authorized to act under the applicable section of the Bylaw for compelling reasons of safety, aesthetics, or site design.

The Board finds that the compelling reason relates to site design and that the topography along the garage prevents the applicant's ability to extend parking along it and outside of the front setback. The Board also found that providing three parking spaces for the single family rental was appropriate and that the other properties in the vicinity have parking within the front setback and arrangements requiring vehicles to back onto West Street.

Specific Findings:

The Board finds under Section 10.38 of the Zoning Bylaw, Specific Findings required of all Special Permits, that:

10.380 & 10.381 - *The proposal is suitably located in the neighborhood in which it is proposed and/or the total Town, as deemed appropriate by the Special Permit Granting Authority; The proposal is compatible with existing Uses and other Uses permitted by right in the same District.* The proposal formalizes and improves the parking arrangement on this property. The permit will enhance the surface and condition of the parking area and will create a more clearly delineated parking area. The parking of three vehicles in the front setback is compatible with other properties in the vicinity.

10.382, 10.383 & 10.385 - *The proposal would not constitute a nuisance due to air and water pollution, flood, noise, odor, dust, vibration, lights, or visually offensive structures or site features; The proposal would not be a substantial inconvenience or hazard to abutters, vehicles or pedestrians; The proposal reasonably protects the adjoining premises against detrimental or offensive uses on the site, including air and water pollution, flood, noise, odor, dust, vibration, lights or visually offensive structures or site features.* The proposal will better organize the parking for three vehicles and will prevent vehicles from parking on or blocking the sidewalk. The proposal will maintain existing shrubs along the south property line and will visually enhance the appearance of the parking area.

10.386 - *The proposal ensures that it is in conformance with the Parking and Sign regulations (Articles 7 and 8, respectively) of this Bylaw.* The Board made the following findings relative to Article 7:

7.0000 - *Two (2) parking spaces for each dwelling unit.* The proposal provides for a total of three parking spaces. The Bylaw requires a minimum of two spaces. Therefore, the proposal exceeds the minimum requirement.

7.0001 - *Parking spaces for cars or similar vehicles shall be on a paved surface such as concrete, bituminous asphalt, masonry pavers, oil and stone, gravel, trap rock, or a similar material (see Section 7.101); 7.101- Paving: For the purposes of this bylaw, a paved parking surface shall be considered to be one which has a prepared subgrade and compacted gravel base with a minimum total 12 inch depth, appropriate grading and drainage, and which is surfaced with a minimum 2 inch top coat of concrete, asphalt, masonry pavers, oil and stone, gravel, trap rock, or similar material, as approved or modified by the Town Engineer. To the extent feasible, permeable or porous paving shall be employed in new construction or site renovations or improvements.*

The approved plan identifies that the parking area will be constructed with a 12 inch compacted gravel base and minimum 2 inch top coat of material.

7.104 - *Dimensions, Marking & Delineation - Parking areas shall be clearly delineated and shall be provided with a permanent dust-free surface and adequate drainage; Each parking space shall be at least 9 feet x 18 feet in size, and all parking areas must have adequate access and maneuvering areas; In all parking areas of five (5) or more parking spaces, individual spaces shall be painted, marked or otherwise delineated in a manner sufficient to visibly identify said spaces.* The proposal, as shown, provides two full size spaces and one reduced size space. The parking area will be delineated on the south, west, and north with wood timbers anchored into the ground.

10.398 - *The proposal is in harmony with the general purpose and intent of this Bylaw, and the goals of the Master Plan.* The proposal provides for the removal of a violation and the creation of a parking plan that complies with all relevant provisions of the Zoning Bylaw and is the "most appropriate use of the land" on this property and neighborhood.

Zoning Board Decision

Mr. Ehrgood MOVED to approve the application with conditions. Mr. Parent seconded the motion.

For all of the reasons stated above, the Board VOTED unanimously to grant a Special Permit, ZBA FY2015-00015, to waive Section 7.0002 and allow three cars to be parked within the required front yard setback where the limit is two, under Section 7.9 of the Zoning Bylaw, at 279 West Street (Map 20A, Parcel 55, R-N Zoning District) subject to conditions.

Eric Beal (S)
ERIC BEAL

Tom Ehrgood (S)
TOM EHrgOOD

Mark Parent (S)
MARK PARENT

FILED THIS _____ day of _____, 2015 at _____,
in the office of the Amherst Town Clerk _____.
TWENTY-DAY APPEAL period expires, _____ 2015.
NOTICE OF DECISION mailed this 19th day of February, 2015
to the attached list of addresses by Jeffrey R. Bagy, for the Board.
CERTIFICATE OF NO APPEAL issued this _____ day of _____, 2015.
NOTICE OF PERMIT or Variance filed this _____ day of _____, 2015,
in the Hampshire County Registry of Deeds.

THE COMMONWEALTH OF MASSACHUSETTS
AMHERST

City or Town
NOTICE OF SPECIAL PERMIT
Special Permit
(General Laws Chapter 40A)

Notice is hereby given that a Special Permit has been granted

To Matt Leidl & Jen Hughes

Address 328 Middle Street

City or Town Amherst, MA 01002

Identify Land Affected: 279 West Street

(Map 11D, Parcel 108, R-G Zoning District)

By the **Town of Amherst Zoning Board of Appeals** affecting the rights of the owner
with respect to the use of the premises on

279 West Street

Street

Amherst

City or Town

The record of title standing in the name of

Matthew Leidl

Name of Owner

Whose address is 328 Middle Street

Street

Amherst

City or Town

MA 01002

State Zip Code

By a deed duly recorded in the

Hampshire County Registry of Deeds: Book 8711 Page 266

or

Hampshire Registry District of the Land Court, Certificate No. _____,

Book _____, Page _____

The decision of said Board is on file, with the papers, in ZBA FY2015-00015

_____ In the office of the Town Clerk Sandra J. Burgess

Certified this _____ day of _____

Board of Appeals:

Eric Beal Chairman
(Board of Appeals) Jo
Tom Ehrigood Clerk
(Board of Appeals) Jo

_____ at _____ o'clock and _____ minutes _____ m.

Received and entered with the Register of Deeds in the County of Hampshire

Book _____ Page _____

ATTEST _____

Register of Deeds

Notice to be recorded by Land Owner

**BOARD OF APPEALS
AMHERST, MASSACHUSETTS
RECORD OF APPEALS AND DECISION RENDERED**

Petition of Matt Leidl & Jen Hughes

For A Special Permit to waive Section 7.0002 and allow three cars to be parked within the required front yard setback where the limit is two, under Section 7.9 of the Zoning Bylaw

On the premises of 279 West Street
At or on Map 11D, Parcel 108, R-G Zoning District

NOTICE of hearing as follows mailed (date) November 4, 2014
to attached list of addresses and published in the Daily Hampshire Gazette
dated November 4, 2014 and November 11, 2014

Hearing date and place November 6, 2014 (Town Hall)

SITTING BOARD and VOTE TAKEN:

To grant a Special Permit, ZBA FY2015-00015, to waive Section 7.0002 and allow three cars to be parked within the required front yard setback where the limit is two, under Section 7.9 of the Zoning Bylaw, at 279 West Street, subject to conditions

Mark Parent – Yes Eric Beal – Yes Tom Ehrgood – Yes

DECISION: APPROVED with conditions

Town of Amherst Abutter List

Parcel ID	Parcel Address	Owner1	Owner2	Address	City/Zip
20A-83	15 KAMINS CIR	SIBRIAN ROBERTO C & CRUZ DINORA		15 KAMINS CIR	AMHERST, MA 01002
20A-107	24 MERRICK CIR	FITZGERALD, MARC A & KRYSTAL M		24 MERRICK CIR	AMHERST, MA 01002
20A-108	32 MERRICK CIR	BOERMAN, JAYA S & ERICA CLARK		32 MERRICK CIR	AMHERST, MA 01002
19D-10	191 WEST POMEROY LN	APPLIED GOLF HICKORY LLC		191 WEST POMEROY LN	Amherst, MA 01002
20A-72	WEST ST	TOWN OF AMHERST CONSERV COMM		TOWN HALL	AMHERST, MA 01002
20A-56	WEST ST	TOWN OF AMHERST CONSERV COMM		TOWN HALL	AMHERST, MA 01002
20A-62	245 WEST ST	MONTEIRO, CHRISTOPHER L		245 WEST ST	AMHERST, MA 01002
20A-10	251 WEST ST	MANG, SOKEM		251 WEST ST	AMHERST, MA 01002
20A-15-79	252 WEST ST	BANAS, BRENT A & KATHLEEN		5 HILLSIDE DR	HADLEY, MA 01035-9670
20A-14-79	252 WEST ST	BURNETT, LAVONETTE M L & GARY		252 WEST ST #14	AMHERST, MA 01002
20A-4-79	252 WEST ST	CASSEL, STANLEY W & DIANA G		252 WEST ST #4	AMHERST, MA 01002
20A-17-79	252 WEST ST	CASTONGUAY, PHILIP M		252 WEST ST #17	AMHERST, MA 01002
20A-5-79	252 WEST ST	CHUNG, ROBERT M & HWANG, MEI-JU		584 BAY RD	AMHERST, MA 01002
20A-3-79	252 WEST ST	DE CRESPIGNY, ALEX J		252 WEST ST #3	AMHERST, MA 01002

<i>Parcel ID</i>	<i>Parcel Address</i>	<i>Owner1</i>	<i>Owner2</i>	<i>Address</i>	<i>City/State/Zip</i>
20A-11-79	252 WEST ST	FARRICK, RICHARD E		27 CLARKE ST	NEWPORT, RI 02840
20A-1-79	252 WEST ST	HALL JR, WARREN & ET AL		252 WEST ST #1	AMHERST, MA 01002
20A-7-79	252 WEST ST	HALL JR, WARREN S & MARIE C		60 HARKNESS RD	PELHAM, MA 01002
20A-8-79	252 WEST ST	HALL JR, WARREN S & MARIE C		60 HARKNESS RD	PELHAM, MA 01002
20A-9-79	252 WEST ST	HALL JR, WARREN S & MARIE C		60 HARKNESS RD	PELHAM, MA 01002
20A-2-79	252 WEST ST	HALL, WARREN S & ET AL		60 HARKNESS RD	PELHAM, MA 01002
20A-12-79	252 WEST ST	PLOTKIN, JEFFREY		252 WEST ST #12	Amherst, MA 01002
20A-6-79	252 WEST ST	PRICE, KEITH W & ET AL		7 PARTRIDGE RD	MEDFIELD, MA 02052-1908
20A-18-79	252 WEST ST	REEDER, PAUL E & AMY R TRUSTEES	C/O PREEMINENT PROPERTIES LLC	23 NORTHERN SPY RD	FRANKLIN, MA 02038
20A-10-79	252 WEST ST	ROE, SARAH M		252 WEST ST #10	Amherst, MA 01002
20A-13-79	252 WEST ST	RUEL, HEATHER L		83 TAYLOR ST	GRANBY, MA 01033
20A-16-79	252 WEST ST	STEWART, JANET H		252 WEST ST UNIT 16	AMHERST, MA 01002
20A-11	259 WEST ST	MARINE, DWIGHT H & TOUCH		259 WEST ST	AMHERST, MA 01002
20A-55	279 WEST ST	LEITL, MATTHEW K		328 MIDDLE ST	AMHERST, MA 01002
20A-38	280 WEST ST	TOWN OF AMHERST SCHOOL DEPT		TOWN HALL	AMHERST, MA 01002

<i>Parcel_ID</i>	<i>Parcel_Address</i>	<i>Owner1</i>	<i>Owner2</i>	<i>Address</i>	<i>CityStZip</i>
20A-39	290 WEST ST	TZENG, YOU PAN & HAN, SUSAN		682 WOLF SWAMP RD	LONGMEADOW, MA 01108
20A-54	295 WEST ST	KNIGHTLY, THOMAS E	KNIGHTLY, DOROTHY E	295 WEST ST	AMHERST, MA 01002
20A-12	297 WEST ST	SEIHOUN, FARZAD		2 WINTERGREEN CIR	AMHERST, MA 01002
20A-61	299 WEST ST	TROY, MEREDITH G		299 WEST ST	AMHERST, MA 01002
20A-101	300 WEST ST	KH AMHERST PE LLC	C/O VALLEY PROPERTY MANAGEMENT	P.O. BOX 3649	AMHERST, MA 01002
20A-102	310 WEST ST	COMM PROPERTIES LLC	C/O PIPELINE PROPERTIES	6 UNIVERSITY DR SUITE #206- 215	AMHERST, MA 01002
20A-64	311 WEST ST	CONLEY, PERRY E		311 WEST ST	AMHERST, MA 01002